IN THE HIGH COURT FOR THE STATES OF PUNJUAB AND HARYANA AT CHANDIGARH

CRL.R.NO. 49 of 1995

DATE OF ORDER:18.9.2007

Ram Mehar ....Petitioner

Versus

State of Haryana ....Respondent

CORAM: HON'BLE MR. JUSTICE A.N. JINDAL

Present: Mr. R.K. Malik, Advocate, assisted by
Mr. Vishal Malik, Advocate,for the petitioner.
Mr. K.S. Godara, D.A.G. Haryana.

A.N.JINDAL, J.

Assailed in this petition is the judgment dated 12.1.1995, passed by Additional Sessions Judge (II), Bhiwani, dismissing the appeal of the petitioner against the judgment dated 16/17-8-1993 passed by Addl. Chief Judicial Magistrate, Bhiwani, convicting the accused and sentencing him to undergo RI for a period of one year and to pay a fine of Rs. 500/- under Section 304-A IPC, to undergo RI for a period of three months under Section 337 IPC and to undergo RI for a period of two months under Section 279 IPC.

The facts as unfolded by the prosecution which are essential for the disposal of this petition are that on 17.2.1989, Ajmer Singh s/o Rattan Singh, resident of village Nadana, while driving a bus No. HYB 4168 was going for Hajampur from Bhiwani and when he reached near village Tigrana- turning at 8-00 a.m., in the meantime Ram Mehar(hereinafter referred to as the 'petitioner') while driving bus No. HNB 2395 in a rash and negligent manner, came from the opposite side and struck against the rear portion of the bus bearing No. HYB 4168. Resultantly, it over turned as a sequel of which 20/25 passengers sustained injuries who were shifted to the Hospital. Vijay Kumar and Deep Chand succumbed to their injuries. On the basis of the statement Ex. PA made by Amir Singh, case was registered against the petitioner. Investigation was commenced. Ultimately the challan against the petitioner was presented. He was charged under Section 279,337 and 304-A IPC to which he pleaded not guilty and claimed trial.

The prosecution in order to bring home the charge against the petitioner examined Ajmer Singh PW1, Charan Dass Mechanic PW2,

Surender PW3, Dr. K.K. Girdhar PW4, Dr. U.S. Pahwa PW5, Dr. Kapil Kumar PW6, Dr. Suresh Chander PW7, Balbir Singh PW8, Ram Kishan PW9, Mahabir Singh Inspector PW10, Sunder Singh Duty clerk PW11, HC Maha Singh PW12,Hajari Lal PW13 and Murari Lal conductor PW14.

When examined under Section 313 Cr.P.C petitioner denied all the incrimianting circumstances appearing against him and pleaded his false implication. In defence he examined Puran DW1, who after tendering document Ex. D1, closed the defence evidence.

Ultimately the trial ended in conviction and the appeal was also dismissed.

Argument advanced by learned counsel for the petitioner is that the accident was not the result of the fault on part of the petitioner rather the driver of the vehicle bearing No. HYB 4168 coming from the opposite side was at fault and responsible for the accident.

Pws Dr. U.S. Pahwa, who conducted post morotem examination of Vijay Kumar, proved the autopsy report Ex. PW5/A and Dr. Kapil Kumar PW6 conducted post mortem examination of Deep Chand on 17.2.1989 and proved his report Ex. PW6/A. PW5 Dr. U.S. Pahwa opined that Vijay Kumar died due to shock and haemorrhage and due to the injuries to the vital organs. Same is the opinion of PW6 Dr. Kapil Kumar regarding the cause of death of Deep Chand. There appears to be no reason to disbelieve the statements of Pws 5 and 6 regarding cause of death of deceased Vijay Kumar and Deep Chand.

Dr. Suresh Chander PW7 opined that there were three simple injuries on the body of Ajmer, Balbir Singh son of Rati Ram, one Puran son of Sh. Ram Chander, two Smt. Savitri and three Hajari Lal. All injuries were the result of motor vehicle accident. There is no reason to disbelieve the statement of Dr. Suresh Chander, PW7, qua his opinion, regarding injuries sustained by Ajmer, Balbir Singh, Puran, Savitri and Hazari Lal due to the accident. It would be worth-while to mention that besides the passengers, the accused Ram Mehar Driver as well as Ram Kishan Driver and Murari Lal conductor of bus bearing No. HYB 4168 also sustained injuries. PW4 Dr. K.K. Girdhar observed injuries on person of accused Ram Mehar, Ram Kishan and Murari Lal bus-conductor and proved their medical examination reports.

Heard.

There is no denying a fact that the accident took place on 17.2.1989 between two buses bearing No. HYB 4168 driven by Ram Kishan and HNB 2395 driven by the petitioner. The version of the petitioner is that the driver of Bus No. HYB 4168 was at fault or at the most it could be said to be a case of error of judgment.

In order to solve this controversy, I need to take the shelter of PW2 Charan Dass Mechanic, who proved the reports Ex. PW2/A and PW2/B but he is also not helpful as he reported that no mechanical fault or defect was found in both the buses.

Now, coming to the oral evidence of PW3 Surender, he categorically testified that the petitioner was driving the bus rashly and negligently. Not only this Ram Kishan driver of Bus No. HYB 4168 also had the courage to say that accident took place due to rash and negligent driving of the petitioner. No such suggestion was put to this witness if accident took place due to some other unavoidable circumstance. As argued by the learned counsel for the petitioner PW13 Hazari Lal another injured eye witness and PW14 Murari Lal conductor of bus No. HYB 4168 also testified that the petitioner was liable for the accident. It may not be safe from the evidence of Ram Kishan PW9 to reach the right conclusion yet the other evidence on record cannot be ignored. No sufficient material was supplied by learned counsel for the petitioner for discarding the testimonies of PW3 and PW13, who consistently state that the petitioner was driving the bus No. HNB 2395 rashly and negligently.

In view of the above statements and consistent findings by the two courts below, the scope of interference at my end stands minimized in this revision petition. No such irregularity or much less illegality has been pointed out so as to conclude that the judgment is against the evidence on record or beyond the record or court while holding the petitioner guilty made observations on the basis of no evidence.

Consequently, finding no merit in the petition, the same is hereby dismissed.

18.9.2007 (A.N. JINDAL)
rajeev JUDGE

To be referred to reporter : Yes/no